



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 31, 1996

Mr. Roland Castañeda
General Counsel
Office of General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR96-0141

Dear Mr. Castañeda:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34263.

Dallas Area Rapid Transit ("DART") received two open records requests seeking information about a settlement in a lawsuit filed in state district court styled *Roger Roberts v. Dallas Area Rapid Transit et al.*, cause number 94-2877. One request asks for two items, (1) the total settlement amount paid to Roger Roberts and his attorneys as a result of the lawsuit, and (2) the total dollar amount DART paid to its outside attorneys retained in the Roberts lawsuit. You state that you have provided the requestor with the information requested in item two. The other request asks for "copies of any settlement agreement with Roger Roberts including separation agreements, financial terms, and any commitments made by either party." Regarding the requests for specific settlement information, you contend that sections 552.103, 552.101, and 552.107(2) of the Government Code except the requested information from required public disclosure. You have submitted for our review the relevant court documents.

A final judgment of dismissal and confidentiality was signed by the court on June 7, 1995. By its final judgment, the court ordered that the terms of the settlement "shall not be disclosed by the parties or their attorneys without prior court order." You state that you will provide a copy of this judgment to the requestor. Additionally, you state that there exists no "stand alone" separation agreement that you can provide to the requestor seeking such a document.

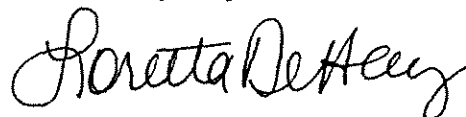
Section 552.107(2) provides that information is excepted from required public disclosure if "a court by order has prohibited disclosure of the information." Ordinarily, a governmental body may not contract to keep information confidential, even if the governmental body does so by means of a settlement agreement.¹ However, pursuant to section 552.107(2), a governmental body may withhold the terms of an agreed settlement if a court issues an order prohibiting disclosure of the terms of the settlement. We addressed this issue in Open Records Decision No. 415 (1984) at 2:

The order of dismissal in this case, which was signed by the judge of the 103rd District Court, expressly provides that "the terms of the settlement shall not be disclosed by the parties or their attorneys." Although we have grave doubts as to whether the judge was authorized to issue an order of this nature, the fact remains that the order is extant. In light of this, we must reluctantly conclude that the requested materials are excepted from required disclosure by [section 552.107(2)].

You have submitted to this office the trial court's judgment whereby the court ordered that the settlement agreement and release of claims not be disclosed by the parties or their attorneys without prior court order. Consequently, you must withhold the requested information pursuant to section 552.107(2).

Because we conclude that the information requested is excepted from required disclosure by section 552.107(2), we do not need to address your remaining arguments regarding other exceptions. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/RHS/ch

Ref: ID# 34263

¹We also note that rule 76a of the Texas Rules of Civil Procedure places both procedural and substantive restrictions on a Texas court's authority to seal court records, including settlement agreements.

Enclosures: Submitted documents

cc: Mr. Curtis Howell
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